

ENTERED

June 26, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

No. 3:23-0187

HERBERT DARRELL HAY, A/K/A DEBBIE NOE, TDCJ # 00263672,
PLAINTIFF,

v.

UNIVERSITY OF TEXAS MEDICAL BRANCH, *ET AL.*, DEFENDANTS.

ORDER OF DISMISSAL

JEFFREY VINCENT BROWN, *UNITED STATES DISTRICT JUDGE*:

Herbert Darrell Hay, a/k/a Debbie Noe, an inmate in the Texas Department of Criminal Justice—Correctional Institutions Division (TDCJ), filed a civil-rights complaint on June 20, 2023. The claims in this case are identical or substantially similar to the claims in a separate lawsuit that Hay filed in this judicial district on June 9, 2023. *See Hay v. University of Texas Medical Branch, et al.*, Civil Action No. 3:23-0171 (S.D. Tex.). In Civil Action No. 3:23-0171, the Clerk entered a notice of deficient pleading on June 13, 2023, instructing Hay to submit an amended civil-rights complaint within 30 days using the court’s form complaint. It appears from the record in both cases that the complaint filed in this case is, in fact, an amended complaint for Civil Action No. 3:23-0171.

Because this lawsuit duplicates Hay's claims in the previously filed lawsuit, the court concludes that the case at bar was improvidently filed and now orders as follows:

1. This civil action is **DISMISSED** as improvidently filed. This dismissal is without prejudice to consideration of Hay's claims in Civil Action No. 3:23-0171.
2. All pending motions in this action, if any, are **DENIED** as moot.
3. The Clerk is **INSTRUCTED** to docket the complaint in this case (Dkt. 1) as an amended complaint in Civil Action No. 3:23-0171.

The Clerk will provide a copy of this order to the parties.

Signed on Galveston Island this 26th day of June, 2023.



JEFFREY VINCENT BROWN
UNITED STATES DISTRICT JUDGE